

ORDINANCE NO. 5077

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 2 OF THE MESQUITE CITY CODE BY DELETING SECTIONS 2-5 AND 2-6 IN THEIR ENTIRETY AND REPLACING THEM WITH NEW SECTIONS 2-5 AND 2-6 THEREBY AUTHORIZING THE CITY MANAGER AND OTHER DESIGNATED CITY OFFICIALS TO EXECUTE AND ADMINISTER CERTAIN CONTRACTS, CHANGE ORDERS, AND INTERLOCAL AGREEMENTS NOT TO EXCEED \$100,000.00, EXECUTE AND RELEASE LIENS AND EASEMENTS, AND MANAGE OWNERSHIP OF CITY VEHICLES, AND AUTHORIZING THE CITY ATTORNEY TO FILE AND SETTLE LAWSUITS, HIRE OUTSIDE LEGAL COUNSEL AND PAY CERTAIN LAWSUITS SETTLEMENTS, CLAIMS, FINES, PENALTIES, SANCTIONS, AND SEVERANCE NOT TO EXCEED \$100,000.00; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE THEREOF.

WHEREAS, during day-to-day business of the City of Mesquite, it is necessary and efficient for agreements, contracts, liens, easements and related documents to be executed by the City Manager and other City Staff without such documents being presented to the City Council for approval; and

WHEREAS, the City Council has provided authority to the City Manager and other City Staff for these purposes through various City Council actions, resolutions and by ordinance, including a delegation ordinance, Section 2-5 of the Mesquite City Code, that provides broad direction and authorizes the City Manager and other City staff to manage the day-to-day affairs of the City; and

WHEREAS, due to increasing costs, the speed needed to accomplish certain purchases, projects and other actions, and for purposes of efficiency, City Staff is recommending an increase to the City Manager's approval authority up to \$100,000.00 with anything requiring an expenditure over \$100,000.00 being submitted to the City Council for approval; and

WHEREAS, another delegation ordinance, Section 2-6 of the Mesquite City Code, provides authority to the City Attorney in matters relating to lawsuits, the hiring of outside counsel and payment of lawsuit settlements, claims, fines penalties, sanctions and severance; and

WHEREAS, due to increasing costs and for purposes of efficiency, City Staff is recommending an increase to the City Attorney's approval authority up to \$100,000.00 with anything requiring an expenditure over \$100,000 being submitted to the City Council for approval.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

Admin / Ch 2, Secs 2-5 and 2-6 / Delegation of Authority to Designated City Officials

November 6, 2023

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SECTION 1. That Chapter 2 of the Mesquite City Code is hereby amended by deleting Sections 2-5 and 2-6 in their entirety and replacing them with new Sections 2-5 and 2-6, attached hereto as Exhibits A and B, respectively, and incorporated herein by reference and made a part hereof, and in all other respects said Code, Chapter, and Sections to remain in full force and effect.

SECTION 2. All ordinances, or portions thereof, of the City of Mesquite in conflict with the provisions of this ordinance, to the extent of such conflict are hereby repealed; otherwise, they shall remain in full force and effect.

SECTION 3. Should any word, sentence, clause, paragraph, or provision of this ordinance be held to be invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 4. This ordinance shall take effect and be in force from and after its passage.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 6th day of November 2023.

DocuSigned by:

*Daniel Aleman Jr.*

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Daniel Alemán, Jr.  
Mayor

ATTEST:

DocuSigned by:

*Sonja Land*

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Sonja Land  
City Secretary

APPROVED AS TO LEGAL FORM:

DocuSigned by:

*David Paschall*

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David L. Paschall  
City Attorney

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**Sec. 2-5. Delegation of authority to City Manager and other City officials.****(a) *Signing contracts, easements, licenses and liens.***

- (1) The City Manager is authorized to sign all contracts approved by the City Council and, unless otherwise provided by the City Council, to execute all other documents necessary to consummate the transactions contemplated by all council-approved contracts.
- (2) For any contract requiring a City expenditure of up to one hundred thousand dollars (\$100,000.00), the City Manager is authorized to approve and sign the contract without obtaining City Council approval of the contract provided that:
  - a. Funds have previously been allocated in the City's annual budget and are available for the purpose of the contract; and
  - b. City Council approval of the contract is not otherwise required by law.
- (3) The City Manager is authorized to:
  - a. Approve and sign contracts for the sale of City personal and real property or for the purchase by the City of real and personal property without obtaining City Council approval of the contract provided the sale or purchase advances a public purpose and the contract price for the sale or purchase does not exceed one hundred thousand dollars (\$100,000.00), plus closing costs, provided however nothing contained herein shall prevent the City Manager, in the City Manager's discretion, from seeking City Council approval of a contract for the sale or purchase of real or personal property with a value of one hundred thousand dollars (\$100,000.00) or less;
  - b. Accept donations of real and personal property including, without limitation, monetary donations, on behalf of the City, and approve and sign agreements for the donation of such property to the City without obtaining City Council approval of the donation or the donation agreement provided: (i) the ownership or acceptance of such property by the City advances a public purpose; (ii) the City Council has not otherwise delegated the authority to accept the donation of such property; and (iii) the value of the property being donated does not exceed one hundred thousand dollars (\$100,000.00), provided, however, nothing contained herein shall require the City Manager to accept any donation or shall prevent the City Manager, in the City Manager's discretion, from seeking City Council approval of a donation of property with a value of one hundred thousand dollars (\$100,000.00) or less. In the case of real property, the value of the property being donated shall be determined according to: (1) the Dallas Central Appraisal District, or its successor, if the property is located in Dallas County, Texas; or (2) the Kaufman County Appraisal District, or its successor, if the property is located in Kaufman County;
  - c. Administer the sale and purchase contracts and the donation agreements referred to in subsections 2-5(a)(3)a. and 2-5(a)(3)b. above on behalf of the City including, without limitation, the City Manager shall have the authority to take all actions and execute all notices, communications and documents on behalf of the City permitted or contemplated by such contracts and donation agreements;
  - d. Take all actions and execute all deeds, bills of sale, and other closing documents necessary or advisable to consummate the sale, purchase and donation transactions contemplated by the sale and purchase contracts and donation agreements referred to in subsections 2-5(a)(3)a. and 2-5(a)(3)b. above including, without limitation, the City Manager shall have the authority to approve and pay all closing costs in connection with such transactions;

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- e. Obtain, grant and execute utility, drainage, access and other easements, licenses or rights-of-way acquisitions necessary in connection with budgeted City projects or to advance public purposes provided any expenditure does not exceed one hundred thousand dollars (\$100,000.00); and
  - f. Execute and release liens on behalf of the City, and may assign this duty to a designee if authorized by state law.
- (4) The following City officials are authorized to sign the following designated contracts provided they are approved as to form by the City Attorney:
- a. The Director of Parks and Recreation is authorized to execute agreements for the use of a park facility not exceeding a term of thirty (30) days.
  - b. The Managing Director of the Mesquite Arts Center is authorized to execute agreements for the use of the Mesquite Arts Center facility not exceeding a term of thirty (30) days.
  - c. The Chief of Police is authorized to approve and execute wrecker rotation list agreements.
  - d. The Airport Director is authorized to approve and execute hanger leases in accordance with City policy.
  - e. The Library Director is authorized to approve and execute annual subscriptions and agreements for books, papers and other library materials provided no expenditure exceeds fifteen thousand dollars (\$15,000.00), and funds have previously been allocated in the City's annual budget and are available for that purpose.
  - f. City staff, working through the Manager of Purchasing, is authorized to purchase a good or service by purchase order, provided that the total expenditure for the subject good or service by all departments does not exceed one hundred thousand dollars (\$100,000.00) in any fiscal year and otherwise complies with Texas law.
  - g. A director of a City department is authorized to execute vendor and concessionaire agreements administered by their department, provided the expenditure does not exceed ten thousand dollars (\$10,000.00).
  - h. A member of City staff may approve and execute agreements if expressly identified as authorized to do so by ordinance or resolution.
  - i. The Director of Economic Development is authorized to approve and execute advertising contracts provided that (i) no contract exceeds the amount of twenty thousand dollars (\$20,000), and (ii) the cumulative amount of all such contracts in any fiscal year does not exceed the City's annual budget for such services.
- (b) *Administering contracts.* Unless otherwise provided by the City Council in connection with a particular contract, the City Manager is authorized to administer approved and executed contracts on behalf of the City including, but not limited to, taking the following actions:
- (1) Providing notices required or permitted by a contract;
  - (2) Approving or denying any matter in a contract that requires the consent of the City;
  - (3) Approving or denying the waiver of performance of any covenant, duty, agreement, term or condition of a contract;
  - (4) Exercising any rights and remedies available to the City under a contract;
  - (5) Executing notices, amendments, approvals, consents, denials and waivers authorized by this subsection; and

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- (6) Approving amendments to a contract if any expenditure under the amendment, together with all previous expenditures approved by the City Manager, do not exceed one hundred thousand dollars (\$100,000.00).
- (c) *Approving change orders and other supplemental agreements.*
- (1) Except as otherwise provided in this subsection and provided all legal requirements for issuing a change order have been met, the City Manager shall have the authority to approve contract change orders and other supplemental agreements that increase or decrease a contract price by up to one hundred thousand dollars (\$100,000.00), if any expenditure, together with all previous expenditures approved by the City Manager, do not exceed one hundred thousand dollars (\$100,000.00) and if necessary to:
- Make changes in plans or specifications; or
  - Decrease or increase the quantity of work to be performed or materials, equipment or supplies to be furnished.
- (2) For manager-approved procurement contracts authorizing an expenditure of on hundred thousand dollars (\$100,000.00) or less, a change order is prohibited if the amount of the change, together with all previous expenditures under the contract, exceed one hundred thousand dollars (\$100,000.00).
- (3) The City Manager may approve a change order that increases a contract's price only to the extent that funds for the project in question are available, provided that if the contract is governed by the provisions of Texas Local Government Code, Chapter 252, as amended ("Chapter 252"), the total of all change orders may not exceed the original contract price by more than twenty-five (25) percent.
- (4) If the City Manager is approving a decrease in the contract price by more than twenty-five (25) percent (but within the delegated one hundred thousand dollars (\$100,000.00) maximum), consent of the contractor must first be obtained as required in Chapter 252.
- (5) The City Manager may delegate authority to a director initiating a contract to approve change orders, in an emergency, for the purposes and amounts provided for above. Prior to approving an emergency change order, the initiating director, in a written memorandum to the City Manager, shall set forth:
- The nature of the emergency requiring the requested change order which prevents the normal review and approval provided for in this subsection;
  - That the proposed change order is dictated by sound principles and is cost effective;
  - That the proposed change is consistent with the scope and purpose of the project;
  - That sufficient funds are available to cover the change order; and
  - That legal requirements for issuing a change order have been met.
- (7) It is the responsibility of the department initiating a construction contract to ensure that contingency funds are included in the amount requested for approval when the City Council awards the construction contract.
- (d) *Determining contracting method and delivery procedure.* The City Manager or manager's designee is authorized to determine which contracting method and delivery procedure provided under Chapter 252 of the Texas Local Government Code, as amended, or Chapter 2269 of the Texas Government Code, as amended, shall provide the best value for the City for the purchase of construction services.
- (e) *Signing interlocal agreements for cooperative purchasing.* Without first obtaining City Council approval, the City Manager is authorized to enter into and sign interlocal agreements between the City and any governmental entity authorized to enter into any interlocal agreement, pursuant to Chapters 271 and 791 of the Texas Government Code, as amended, for cooperative purchasing if the interlocal agreement does not

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require an expenditure in excess of one hundred thousand dollars (\$100,000.00). The City Manager shall provide written notification to the City Council of all manager-approved interlocal agreements. All other interlocal agreements shall be approved by the City Council.

(f) *Release and abandonment of certain easements.* Upon request of a property owner burdened by an easement owned by the City, the City Manager, acting on behalf of the City, is authorized to release and abandon a public water, sanitary sewer, drainage, fire lane, and/or mutual access easement, or portions thereof, that was previously conveyed and/or dedicated to the City by plat or separate instrument subject to the following conditions:

- (1) Except as provided in Paragraph (2), the easement must contain no facilities owned by the City or any other party with the right to place facilities in the easement;
- (2) If the easement contains facilities owned by the City and/or a third party with the right to locate facilities in the easement, the City Manager may proceed to abandon and release the easement provided the owner of such facilities has either (i) agreed to abandon the facilities in place without a requirement to relocate the facilities or (ii) reached agreement with the owner of the property seeking abandonment of the easement to relocate the facilities to another easement dedicated for such purpose, in which case, unless otherwise agreed by the owner of the facilities, the abandonment of the easement shall not be effective unless and until the new easement has been conveyed and/or dedicated and the newly relocated facilities have been constructed and accepted by the owner of the facilities;
- (3) All entities with the right to use the easement to be abandoned either by virtue of a franchise granted by the City or by operation of state law shall have (i) confirmed in writing that they own no facilities in the easement or portions thereof to be abandoned and (ii) have no objection to the abandonment;
- (4) If the easement was conveyed or dedicated to the City by separate instrument, the abandonment shall be accomplished by separate instrument on a form approved by the City Attorney. In this event, the party requesting the abandonment of the easement shall provide the City with a surveyed boundary description and survey plat of the easement or portion thereof to be abandoned that satisfies the requirements of the city;
- (5) The party requesting the abandonment and release shall be responsible for payment of all recording fees relating to filing the release in the real property records of the county where the property is located; and
- (6) If the easement was conveyed or dedicated to the City by plat or appears on a plat, the abandonment of the easement shall be effective only upon approval of a replat of the property burdened by the easement. The replat shall contain a note signed by the City Manager or any assistant City manager that reads as follows:

The abandonment and release of the easement(s) owned by the City of Mesquite that are shown hereon as being "Abandoned by this Plat" has been reviewed and approved by the City Manager under the authority granted by City of Mesquite Ordinance No. 4745.

(g) *City Vehicles.* The Manager of Equipment Services, Director of Solid Waste and Equipment Services, the City Manager or his designee is authorized to sign all documents relating to the City vehicle registrations, titles and license plates and to complete and sign forms required to make application to the Texas Department of Transportation requesting issuance of regular license plates, fee exempt, for vehicles exempt under Texas Transportation Code § 721.005.

(h) *Definitions.* The term "City Manager" shall mean the person then acting as City Manager and any designee of the City Manager.

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(Ord. No. 4472, § 1, 3-20-17; Ord. No. 4663, § 1, 4-15-19; Ord. No. 4745, § 1(1, 2), 12-16-19)

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(Supp. No. 65, Update 2)

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**Sec. 2-6. Delegation of authority to City Attorney.**

- (a) *Instituting lawsuits.* The City Attorney is authorized to institute lawsuits on behalf of the City. The City Attorney shall provide written notification to the City Council of all lawsuits instituted.
- (b) *Hiring outside legal counsel.* The City Attorney is authorized to retain outside legal counsel to assist in the representation and defense of the City, its officers and employees, provided the engagement agreement does not exceed one hundred thousand dollars (\$100,000.00) in any fiscal year.
- (c) *Settlement and payment of lawsuits, claims, fines, penalties, sanctions and severance.* The City Attorney is authorized to pay or deny payment in settlement of lawsuits, claims, fines, penalties and sanctions against the City and its employees, and to approve severance pay in avoidance of a claim against the City, in an amount that does not exceed one hundred thousand dollars (\$100,000.00). The City Attorney shall provide written notification to the City Council of all settlements and payments exceeding one hundred thousand dollars (\$100,000.00).

(Ord. No. 4472, § 1, 3-20-17)